

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JAMOD ROHN,)
Petitioner,)
vs.) Civil Action No. 14-851
BRIAN V. COLEMAN "Superintendent") Joy Flowers Conti/
SCI Fayette"; GARY GLAZER "Judge",) Magistrate Judge Maureen P. Kelly
Respondents.)

MEMORANDUM ORDER

The above-captioned Petition for Writ of Habeas Corpus (the "Petition") filed pursuant to 28 U.S.C. § 2254 was received by the Clerk of Court on June 30, 2014, and was referred to a United States Magistrate Judge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rule 72 of the Local Rules for Magistrate Judges.

The magistrate judge's Report and Recommendation (the "Report"), ECF No. 5, filed on August 5, 2014, recommended that the Petition be dismissed pre-service pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts because the Petition was second or successive within the meaning of 28 U.S.C. § 2244(b). Service of the Report was made on the Petitioner at his address of record. Petitioner was given until August 22, 2014 to file any objections. Petitioner's objections were docketed on August 21, 2014. ECF No. 6. The court concludes that none of the objections merit rejection of the Report or extended comment.

Petitioner's objections are almost entirely nonresponsive to the Report's findings that the present Petition is second or successive and consequently this court lacks subject-matter jurisdiction over the present Petition. Petitioner does not deny that he previously filed habeas petitions attacking the same conviction as he attacks herein. He, however, argues that "Plaintiff

is not attacking the legality of any conviction or sentence; accordingly, Plaintiff is attacking the unlawful confinement and imprisonment where there exist[s] no lawful written ‘Judgment of Sentence Order’ authorizing his confinement in the Department of Corrections.” ECF No. 6, ¶ 3. Notwithstanding that argument, Petitioner is clearly attacking the legality of his imprisonment and seeks release from imprisonment. The imprisonment is a result of the conviction that Petitioner previously attacked via a habeas petition in the United States District Court for the Eastern District of Pennsylvania as the Report correctly found. Accordingly, the present Petition is clearly a second or successive Petition and as such must be dismissed for lack of jurisdiction.

Accordingly, after de novo review of the pleadings and the documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 25th day of September, 2014;

IT IS HEREBY ORDERED that the Petition is dismissed pre-service as being second or successive.

IT IS FURTHER ORDERED that the Report and Recommendation, ECF No. 5, filed on August 5, 2014, by Magistrate Judge Kelly, is adopted as the opinion of the Court. The Clerk is to mark the case closed. A certificate of appealability is denied.

/s/ Joy Flowers Conti
Joy Flowers Conti
CHIEF UNITED STATES DISTRICT JUDGE

cc: The Honorable Maureen P. Kelly
United States Magistrate Judge

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